



State of Washington
PUBLIC DISCLOSURE COMMISSION

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2:00 p.m.
May 26, 2004

MINUTES – SPECIAL MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Earl Tilly, Chair
Michael Connelly, Vice Chair
Francis Martin, Secretary
Jeannette Wood, Member
Jane Noland, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Susan Harris, Assistant Director
Michael Smith, Chief Technology Officer
Nancy Krier, Senior Counsel
Ruthann Bryant, Secretary

The special meeting of the Public Disclosure Commission was called to order by Commission Chair Earl Tilly at 2:00 p.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Commissioner Comments

Commissioner Tilly welcomed new Commission member Jane Noland.

Commissioner Noland, a resident of Seattle, is the owner of Jane Noland Glass Art and served as a member of the Seattle City Council from 1986 through 1997.

Citizen Comments/Concerns

No citizen comments or concerns were expressed.

Minutes

Motion 04-085

Moved by Commissioner Martin, seconded by Commissioner Connelly:

**The Commission adopts the minutes
of March 24 and 25, 2004, as written.**

Voting for: Commissioners Tilly, Connelly, Martin
and Noland.

Not voting: Commissioner Wood (delayed
arrival).

The motion passed.

Rule Making

Petition for Rule Making

Senior Counsel Nancy Krier summarized a Petition for Rulemaking, submitted by Elaine D. Willman on behalf of the Washington STAAR Alliance, for implementation of new guidelines and enforcement mechanisms to protect against unreported contributions from tribal governments, tribal gaming revenue and individual tribal members. Ms. Krier noted that there are two cases in California that are the subject of ongoing litigation in the California state courts and until those cases reach their final conclusions and can be analyzed further, it is the view of PDC staff that the issue is not ripe for rulemaking.

Ms. Willman was present and stated that it is her belief that the administrative code should be expanded to include a more precise definition that addresses the public reporting and disclosure of all monies that impact Washington State elections, regardless of the source, as it is the right and duty of the state to preserve and protect the integrity of its elections for its citizens.

William Whiteley expressed his support of the petition for rulemaking.

Commissioner Connelly commented that the Commission has no authority to change the statute. He suggested monitoring the court cases in California.

Motion 04-086

Moved by Commissioner Connelly, seconded by Commissioner Martin:

The Commission denies the Petition for Rulemaking since the California litigation prompting the petition is still pending and the language submitted addresses statutory remedies.

The motion passed unanimously.

Public Hearing

Susan Harris reported on several proposed rule amendments and one proposed new rule:

- New WAC 390-05-295 Definition – Promise or promise to pay
- Amend WAC 390-17-030 Sample ballots and slate cards
- Amend WAC 390-37-030 Enforcement Procedures – Status of citizen complainant and others
- Amend WAC 390-37-041 Enforcement procedures – Allegations submitted to the attorney general's office and/or prosecuting attorneys
- Amend WAC 390-18-030 Political advertising – Exemptions from identification
- Amend WAC 390-16-207 In-kind contributions – Explanation and reporting
- Amend WAC 390-16-238 Personal use of contributions – Standard
- Amend WAC 390-12-010 Public disclosure commission – regular meetings

If approved, staff will file the CR 103 with the Office of the Code Reviser and the rules will become effective 31 days after filing.

Ms. Harris noted that a stakeholder meeting was held on March 15, 2004 to discuss the implications of the proposed rules. No major concerns were raised over the proposed new rule or the rule amendments.

No one signed up to testify.

Motion 04-087

Moved by Commissioner Connelly, seconded by Commissioner Martin:

The Commission adopts WAC 390-05-295 as presented.

The Commission amends WAC 390-17-030, WAC 390-37-030, WAC 390-37-041, WAC 390-18-030, WAC 390-16-207, WAC 390-16-238 and WAC 390-12-010 as presented.

The motion passed unanimously.

Enforcement Matters

Hearings:

*Committee for Responsible Majority,
Case #04-383*

Phil Stutzman read the Stipulation of Facts, Violations and Penalty into the record in the case against the Committee for a Responsible Majority (CFARM) for alleged violations of: (1) RCW 42.17.080 and .090 by failing to timely file monetary contribution reports for contributions received between November 1, 2000 and November 30, 2003 and by failing to timely file summary reports of contributions and expenditures for the same period; and (2) RCW 42.17.105 by failing to timely file last minute contributions reports for contributions received before the 2000 primary and general elections and before the 2002 general election.

Senator Jim Honeyford, Chair of CFARM, was present and stated that he values his reputation and has taken steps to prevent future problems. He added that he will personally monitor all reporting to ensure compliance.

Motion 04-088

Moved by Commissioner Noland, seconded by Commissioner Wood:

In PDC Case #04-383, Committee for Responsible Majority, the Commission accepts the Stipulation of Facts, Violations and Penalty of

\$5,000 with \$2,500 suspended based on no future violations of RCW 42.17 for four years.

The motion passed unanimously.

*Washington State Farm Bureau,
Case #04-309*

Phil Stutzman read the Stipulation of Facts and Violation into the record in the case against the Washington State Farm Bureau for alleged violation of RCW 42.17.080 by failing to timely file a Lobbyist Employer's Contribution Report (PDC form L-3c) for a monetary contribution made in September 2003. He noted that the parties were unable to jointly recommend an appropriate penalty.

Attorney John White introduced Pat Batts, Administrative Vice President. Mr. Batts stated the violation was unintentional and a new system had been set up to ensure compliance.

Motion 04-089

Moved by Commissioner Wood, seconded by Commissioner Noland:

In PDC Case #04-309, Washington State Farm Bureau, the Commission accepts the Stipulation of Facts and Violation.

The motion passed unanimously.

Motion 04-090

Moved by Commissioner Noland, seconded by Commissioner Connelly:

In PDC Case #04-309, Washington State Farm Bureau, the Commission assesses a penalty of \$1,000 with \$500 suspended pending no future violations of RCW 42.17 for two years.

The motion passed unanimously.

C. Foster Rose, Case #04-419

Phil Stutzman read the Stipulation of Facts and Violations into the record in the case against C. Foster Rose for alleged violations of RCW 42.17.770 by soliciting a paid employment position from two candidates for Mayor of Bellingham in exchange for his endorsement of their candidacies. He noted that the parties were unable to jointly recommend an appropriate penalty.

Mr. Rose was present and sincerely apologized to the Commission. He stated that he was not aware that he was breaking the law.

Motion 04-091

Moved by Commissioner Connelly, seconded by Commissioner Martin:

In PDC Case #04-419, C. Foster Rose, the Commission accepts the Stipulation of Facts and Violations.

The motion passed unanimously.

Motion 04-092

Moved by Commissioner Connelly, seconded by Commissioner Martin:

In PDC Case #04-419, C. Foster Rose, the Commission assesses a penalty of \$2,500 with \$2,000 suspended pending no future violations of RCW 42.17 for four years.

The motion passed unanimously.

Request to Revoke Suspended
Portion of Penalties

William Boyce, Case #04-348

Phil Stutzman reported that a brief enforcement hearing was held on December 15, 2003 in which William Boyce was found in violation of RCW 42.17.080 and .090 for failing to timely file the C-4 report due seven days before the 2003 general election. Mr. Boyce was assessed a penalty of \$500 with \$250 suspended on the condition that he file the 7 day pre-general election C4 report

within 30 days of the date of the order. To date the report has not been filed and staff is asking that the \$250 suspended portion of the penalty be revoked, making the entire \$500 penalty due.

Motion 04-093

Moved by Commissioner Connelly, seconded by Commissioner Martin:

The Commission revokes the penalty suspension and imposes the \$250 previously suspended penalty in PDC Case #04-348, William Boyce.

The motion passed unanimously.

Teresa McQuillen, Case #04-367

Mr. Stutzman reported that a brief enforcement hearing was held on December 15, 2003 in which Teresa McQuillen was found in violation of RCW 42.17.080 and .090 for failing to timely file the C4 report due seven days before the 2003 general election. Ms. McQuillen was assessed a penalty of \$500 with \$250 suspended on the condition that he file the 7 day pre-general election C4 report within 30 days of the date of the order. To date the report has not been filed and staff is asking that the \$250 suspended portion of the penalty be revoked, making the entire \$500 penalty due.

Motion 04-094

Moved by Commissioner Connelly, seconded by Commissioner Martin:

The Commission revokes the penalty suspension and imposes the \$250 previously suspended penalty in PDC Case #04-367, Teresa McQuillen.

The motion passed unanimously.

Request for Reconsideration
Grays Harbor Republican Party
Case #04-298

Phil Stutzman reported that a brief enforcement hearing was held on January 27, 2004 in which the Grays Harbor Republican Party was found in violation of RCW 42.17.040, .080, .090 and WAC 390-17-065. The Grays Harbor Republican Party

was assessed a penalty of \$500 with \$300 suspended.

Chair Cathy Colley and Treasurer Juanita Tedder were present and requested that the penalty be removed since it would inflict a financial burden on the party. She also noted that this is the first occurrence for the party and steps have been taken to ensure compliance in the future.

There was no motion to reconsider this matter.

Reporting Modifications

New

*J. Dean Morgan, Court of Appeals
Division II*

Phil Stutzman reported that Judge Morgan requests an exemption for reports filed in 2003 and 2004 from reporting business and other governmental customers of Davis Wright Tremaine, a law firm of which his spouse is a partner. Judge Morgan requests an exception to PDC Interpretation 02-06 because the firm declined to provide him the information.

Motion 04-095

Moved by Commissioner Connelly, seconded by Commissioner Martin:

The Commission grants J. Dean Morgan a reporting modification that requires him to report:

- 1. The names of the reportable business clients for whom the applicant's spouse has done legal work, of which the applicant is aware;**
- 2. Other reportable business clients of the law firm whose interests are significantly affected by the applicant's action in the applicant's official capacity as a Washington Court of Appeals Judge, when he does not disqualify himself under the provisions of the Canons of Judicial Conduct, specifically the**

disqualification provisions of Canon 3(D), whose identities are known to the applicant by any means;

- 3. The names of the reportable business clients of the law firm when the names are listed in Martindale Hubbell, the firm's publicity brochure(s), or the firm's resume, website, or similar promotional materials of the firm; and**
- 4. All reportable governmental clients that have done business with the law firms, of which the applicant is aware.**

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Renewal (with changes)
Jeffrey Brotman, Regent, Univ. of Washington

Phil Stutzman reported that Jeffrey Brotman requests a renewal of previously granted modification and an exemption from reporting the governmental customers of Costco Wholesale Corporation because to report required business customers would put the corporation at a competitive disadvantage. He is also requesting a modification for the Seattle Art Museum for the F-1 report due in 2003 and 2004.

William Gates, Regent, Univ. of Washington

Phil Stutzman reported that William Gates requests a renewal of previously granted modification and an exemption from reporting the business and governmental customers of Costco Wholesale Corporation because to report required

business customers would put the corporation at a competitive disadvantage.

John Sullivan, attorney for Costco, was present on behalf of Mr. Brotman and Mr. Gates.

Motion 04-096

Moved by Commissioner Connelly, seconded by Commissioner Martin:

The Commission grants Jeffrey Brotman and William Gates reporting modifications as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Grace Yuan, Trustee, Western
WA University*

Phil Stutzman reported that Ms. Yuan requests a renewal of previously granted modification and an exception from the Interpretation 02-03 for lawyers and law firms.

Ms. Yuan was present via telephone and stated that Preston Gates and Ellis, her law firm, has 419 attorneys and ten offices around the world. The firm has over 10,000 current cases and does not have the capability to provide a listing of business customers paying the firm over \$7,500. She stated she is able to report:

1. The names of the reportable business clients for whom she has provided legal service of more than 10 hours;
2. A list of all governmental clients that have done business with the law firm;
3. A list of reportable business clients of the law firm whose interests may have been significantly affected by her actions in her official capacity as a Trustee for Western

Washington University (by disclosing clients who have, to the firm's knowledge, conducted business with Western Washington University) and;

4. The names of the reportable business clients of the law firm who are listed in Martindale Hubbell, the firm's publicity brochure(s), the firm's resume, website, or similar promotional materials of the firm.

*Jay Reich, Trustee, Central
Washington University*

Phil Stutzman reported that Mr. Reich requests a renewal of previously granted modification and since he is also a partner with the law firm of Preston Gates and Ellis, seeks a modification identical to that sought by Grace Yuan.

The Commission requested that Ms. Yuan and Mr. Reich provide a letter from the firm stating that it does not have the technical ability to search the customer database to extract the list of reportable business customers that are otherwise disclosable under Interpretation 02-03.

Motion 04-097

Moved by Commissioner Connelly, seconded by Commissioner Martin:

The Commission grants Grace Yuan and Jay Reich the reporting modifications as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Darlene Hartley, School Director,
Stanwood-Camano Island SD*

Mr. Stutzman reported that Ms. Hartley requests renewal of a previously granted modification and an exemption from reporting the business

customers of Warm Beach Christian Camps and Conference Center.

The Commission requested further information regarding Warm Beach Christian Camps and Conference Center and tabled the matter until the June meeting.

Steven Hill, Regent, WA State University

Mr. Stutzman noted that Mr. Hill's request has been continued until a future meeting.

Renewals (no change)

The Commission considered this subset of reporting modification requests en masse.

Motion 04-098

Moved by Commissioner Connelly, seconded by Commissioner Martin:

The Commission grants reporting modifications as requested to Bruce Allen, William Baker, Richard R. Baldwin, Craig Cole, Elizabeth Cowles, Aubrey M. Davis, Stephen L. Johnson, Leslie D. Jones, Richard A. Jones, Kirk Michels, Richard M. Roozen, Jeanne Stewart, Robert Craves, Dan Kristiansen and Palmer Robinson.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Advisory Matter

Susan Harris reported on a request submitted by Mary Hunt, Douglas County Commissioner, regarding RCW 42.17.130, the prohibition on the use of public facilities to support or oppose candidates or ballot issues, and the ability of: (1) local officials to hold town hall meetings to discuss the impact of current initiatives; and (2) a group of

local elected officials to convene and discuss budget impacts that pending initiatives will have on their jurisdictions.

Ms. Harris provided the Commission with a draft letter clarifying the issues and providing guidance.

The Commission concurred with the guidance provided in the letter.

Staff Reports

Executive Director

Vicki Rippie briefly summarized the FY 2004 budget status and revenue received to date.

Assistant Director

Susan Harris reported that the State Auditor's Office provided a questionnaire to small agencies that covers audit topics of interest in an effort to reduce the number of on-site audits.

Chief Technology Officer

Michael Smith updated the Commission on the progress of the ORCA project.

Senior Counsel

Nancy Krier briefly updated the status of current litigation and noted that she will add the two California tribal cases to her report to facilitate monitoring.

Executive Session

Commissioner Connelly noted that the director's performance review would take place at the June meeting.

The Commission went into executive session at 5:30 p.m. to discuss pending and potential litigation with legal counsel.

Public Session/Adjournment

The Commission returned to public session and Commissioner Tilly adjourned the meeting at 6:25 p.m. The next meeting is scheduled for Tuesday June 22, 2004.

Approved by the Commission 6/22/04